IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 897 OF 2007
IN
WRIT PETITION NO. 2520 OF 1996

Narahar Vishnu Dharap, since deceased through LR :
Shri Ramesh Narahar Dharap .. Applicant.

V/s.

Swati Vinayak Phatak .. Respondent.

Mr.V.S.Gokhale for the Applicant.

Mr.Sandeep Phatak i/by Mr.A.V.Anturkar for the Respondent.

CORAM : S. A. BOBDE, J.

DATED : 29th SEPTEMBER, 2007.

P.C. :-

. This is an application in a writ petition in which by an order dated 30th November, 2004, this court had directed that the decree dated 27th April 2001 passed by the learned Joint Civil Judge, Sr. Division, Pune shall not be executed till the writ petition is pending. However, in second appeal No. 279 of 2005 between the same parties, regarding the same property, this court has directed the respondent herein to pay arrears and future arrears of compensation, failing which the stay granted shall stand vacated.

2. Mr. Gokhale, the learned counsel for the applicant/ respondent states that the result of the orders in the writ petition and the second appeal is that even after the respondent/petitioner does not pay the compensation as directed in the second appeal, the respondent/petitioner cannot be evicted because of the stay operating in this writ petition.

3. In the circumstances, I consider it appropriate in the interest of justice to further modify the interim order in the writ petition to the following effect :

> The applicant /respondent shall be entitled to execute the decree dated 27.04.2001 in case, the respondent/petitioner commits defaults in payment of compensation as directed by this court in second appeal No. 279/2005 by order dated 21st October, 2005.

4. Order accordingly. Civil application is disposed of.

5. A copy of this order shall be kept in Second Appeal No. 279 of 2005.

(S.A.BOBDE,J.)

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